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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/610,958 | 07/01/2003 | Dug Gum Lee | A390-JN | 4153 |

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EXAMINER

KRAUSE, JUSTIN MITCHELL

ART UNIT PAPER NUMBER

3682

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/610,958

Applicant(s)

LEE, DUG GUM

Examiner

Justin Krause

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

Under the residence line of the oath, a minimum of the city and state of residence should be given if not the entire address of residence.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Art Unit: 3682

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The disclosed invention is inoperative and therefore lacks utility.

The device violates the law of conservation of energy. Energy into the system must be equal to the energy out of the system. It is physically impossible for the rotation of the rods to increase the force on the rotating elongated member. The specification states that gravitational force pulls a first end of a rod down in sequence as the elongated member rotates, which is consistent with the force of gravity, however gravity acts on the entire length of the rod, this action is countered equally and oppositely by the second end of the rod being raised as the first end falls, and the friction encountered on both ends as well on as the sliding portion in the middle of the rod where it passes through the rotating elongated member. The net force output is 0. It takes an equal amount of energy to raise the second end of the rod as the first end creates as it falls.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Examiner does not understand how the device can be used to amplify force. The device violates conservation of energy. The force applied by gravity to force one end of the rod down is opposed by the force necessary to raise the second end. Therefore the net force of the rod is zero. Examiner does not understand how the rod can generate a force that can be used to amplify the force of the rotating elongated body.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear how the device operates for reasons cited above.

With respect to claims 4 and 8, "circle having a slightly elongated central section" is unclear. A circle is perfectly round and does not have an elongated central section. If this shape has an elongated central section, then it cannot be a circle.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3682

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1-8, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Wankel (2,988,008).

Wankel shows a device (Fig 2) having a housing or frame (1) having a chamber of generally cylindrical shape (2), which has a transverse cross section shaped in the form of a circle having a slightly elongated central section, and an elongated member rotationally mounted on the housing or frame member (3), said elongated member having an end connecting to the rotating device and extending longitudinally through the housing. The elongated member is positioned off center (by distance e) with respect to the center of the chamber. The three lobes attached to the elongated member of Wankel can be interpreted to be a plurality of 3 rods extending from a cylindrically shaped elongated member in a staggered orientation. The device of Wankel is functional, the energy input of expanding combustion gasses imparts a force on the lobes of the elongated body and an output force is generated. Without the external input of the combustion energy, the device does not rotate.

10. Claims 1-8, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Rutkove (US Patent 3,625,089).

11. Rutkove shows a gravity wheel apparatus having a housing or frame (23) having a chamber of generally cylindrical shape (24), which has a transverse cross section shaped in the form of a circle having a slightly elongated central section, and an elongated member rotationally mounted on the housing or frame member (11), said

elongated member having an end connecting to the rotating device and extending longitudinally through the housing. The elongated member is positioned off center with respect to the center of the chamber. A plurality of rods (40) extend in from the elongated body in a staggered orientation.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,070,855 shows an offset rotating device with a plurality of rods


6,694,844 shows an offset rotating device with a plurality of rods

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Krause whose telephone number is 571-272-3012. The examiner can normally be reached on Monday - Friday, 7:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMK
9/29/05

 9/29/05
WILLIAM C. JOYCE
PRIMARY EXAMINER